INSURANCE—BENEFICIARY—ELIGIBILITY OF DIVORCED WIFE.—The husband was a member of a mutual benefit association and he made his wife by name beneficiary in the certificate. Later he divorced her and married again. Upon his death the benefit fund was claimed by the first wife, the second wife, and his children on the theory that he died intestate as to the policy. *Held,* the second wife entitled thereto. *Appleby* v. *Grand Lodge* (Tex. Civ. App.), 225 S. W. 588.

The general rule as to benefit certificates is that the relation of wife must exist at the time of the husband's death to entitle her to any claim or interest thereunder. The rule of the law of insurance that, if one have an insurable interest at the date of the policy, the policy is not vitiated by the termination of that interest, does not apply to benefit certificates. It is testamentary in its character in that it speaks at the death of the member. *Order of Railway Conductors* v. *Koster,* 55 Mo. App. 186. If the insured designates as beneficiary a member of his family, the subsequent separation of family relationship, before the insured's death, defeats the beneficiary's right to the fund. *Green* v. *Green,* 147 Ky. 608, 144 S. W. 1073, 39 L. R. A. (N. S.) 370, Ann. Cas. 1913D 683. So where the benefit funds are payable to the families, heirs, blood relatives, etc., the wife by divorce loses her rights as beneficiary. *Tyler* v. *Odd Fellows,* 145 Mass. 134, 13 N. E. 360. Thus a divorced wife cannot take as widow of the husband. *Dahlin* v. *Knights of Maccabees,* 151 Mich. 644, 115 N. W. 975. And where the by-laws of the association require the beneficiary to be heir to the insured, the divorced wife is thereby excluded. *Schonfield* v. *Turner,* 75 Tex. 324, 12 S. W. 626, 7 L. R. A. 189.

There is, however, a decided line of authority holding otherwise. Thus, it has been held that the statement that she was related to the member as wife is descriptive of her relation to him and did not in itself provide for payment to his widow, and the divorced wife was allowed to recover. *White* v. *American Yeomen,* 124 Iowa 293, 99 N. W. 1071, 66 L. R. A. 164, 104 Am. St. Rep. 323, 2 Ann. Cas. 350. And divorce alone does not render the wife ineligible as beneficiary in a benefit certificate. *Farra* v. *Braman,* 171 Ind. 529, 86 N. E. 843. If the by-laws of the organization do not require the beneficiary to belong to one of the specified classes at the maturity of the policy, the wife may recover notwithstanding the divorce. *Brown* v. *Grand Lodge,* 208 Pa. 101, 57 Atl. 176. Where the certificate allows payment to a dependent of the member, the divorced wife may take if the husband is required to support her. *Martin* v. *Modern Woodmen,* 111 Ill. App. 99. The divorced wife has a vested interest when she has paid the premiums and has children dependent on her. *Leaf* v. *Leaf,* 92 Ky. 166, 17 S. W. 354, 854. And even where the certificate provides that it must be payable to one of the member's family, a divorced wife has a right to the benefit fund of the absence of any change of beneficiary by the husband. The court in deciding this case held that the certificate created a valid contract, upon sufficient consideration, with the member to whom it was issued, and could not be avoided. *Courtois* v. *Grand Lodge,* 135 Cal. 552, 67 Pac. 970.

It is well settled that in a regular life policy, divorce does not affect the right of the wife to the insurance. *Grego* v. *Grego*, 78 Miss. 443, 28 So. 817; *Schmidt* v. *Hauer*, 139 Iowa 531, 111 N. W. 966; *Blum* v. *New York Life Ins. Co.*, 197 Mo. 513, 95 S. W. 317. The rule as to mutual benefit companies is the same. The distinction between mutual companies and associations must be noted. *Overhiser* v. *Mutual Life Ins. Co.*, 63 Ohio St. 77, 50 L. R. A. 552; *Wallace* v. *Mutual Benefit Life Ins. Co.*, 97 Minn. 27, 106 N. W. 84, 3 L. R. A. (N. S.) 478. Although a contrary decision was made in *Hatch* v. *Hatch*, 35 Tex. App. 373, 80 S. W. 411.

INSURANCE—PUBLIC POLICY—SUICIDE.—A policy of life insurance had no provision as to suicide, but did provide that—"This contract shall be incontestible after one year from date of its issue, provided the required premiums are duly paid." The insured died by his own hand more than one year after the date of the policy. *Held*, the insurance company liable on the policy. *Northwestern Ins. Co.* v. *Johnson*, 41 Sup. Ct. 47.

The Supreme Court based its opinion on the ground that such incontestable clause is not contrary to public policy. But the public policy with regard to such contracts is a matter for the States to determine. *Whitfield* v. *Aetna Life Insurance Co.*, 205 U. S. 489, 495.

A considerable number of the States have reached the conclusion that such contracts are not against public policy. *Goodwin* v. *Provident, etc., Ass'n.*, 97 Iowa 226, 66 N. W. 157, 32 L. R. A. 473; *Mutual Reserve Fund Ass'n.* v. *Payne* (Tex. Civ. App.), 32 S. W. 1063; *Simpson* v. *Life Ins. Co. of Virginia*, 115 N. C. 393, 20 S. E. 517; *Patterson* v. *Natural, etc., Ins. Co.*, 100 Wis. 118, 75 N. W. 980, 69 Am. St. Rep. 899, 42 L. R. A. 253; *Sun Life Ins. Co.* v. *Taylor*, 108 Ky. 408, 56 S. W. 668, 94 Am. St. Rep. 383; *Royal Circle* v. *Achterrath*, 204 Ill. 549, 68 N. E. 492, 98 Am. St. Rep. 224, 63 L. R. A. 452; *Supreme Court of Honor* v. *Updegraff*, 68 Kan. 474, 75 Pac. 477, 1 Ann. Cas. 309 and note; *Mareck* v. *Mutual Reserve Fund Ass'n.*, 62 Minn. 39, 64 N. W. 68, 54 Am. St. Rep. 613. *Contra, Ritter* v. *Mutual Life Ins. Co.*, 169 U. S. 139, 154; *Life Ins. Co.* v. *Terry*, 15 Wall. 580. In the last case the policy expressly excepted suicide committed while sane. And where the conditions provided that the policy should be void if the insured committed suicide, and a statute provided for incontestability of the policy after a specified time, it was held that the statute applied only to matters stated in the application and the insurer was allowed to set up the suicide. *Starke* v. *Union Cent. L. Ins. Co.*, 134 Pa. St. 45, 19 Atl. 703, 19 Am. St. Rep. 674, 7 L. R. A. 576.

The decisions in the States are based rather upon the entire contract of insurance as a contract than upon the public policy involved in any part thereof. *Goodwin* v. *Provident, etc., Ass'n., supra; Simpson* v. *Life Ins. Co. of Virginia, supra.*

The incontestable clause applies in case of death by suicide, although the policy contains another clause, providing that death by suicide is not a risk assumed by the insurer. *Royal Circle* v. *Achterrath, supra; Supreme Court of Honor* v. *Updegraff, supra; Simpson* v. *Life Ins. Co. of Virginia, supra.*